

THIRD DAY

(Continued)

(Thursday, December 3, 1992)

AFTER RECESS

The Senate met at 3:00 p.m. and was called to order by the President.

REPORT OF STANDING COMMITTEE

Senator Sims submitted the following report for the Committee on Natural Resources:

S.R. 72**C.S.S.C.R. 4****CAPITOL PHYSICIAN**

The "Doctor for the Day," Dr. D. Brett Mitchell of Fort Worth, was introduced to the Senate by Senator Moncrief.

The Senate expressed appreciation and gratitude to Dr. Mitchell for participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

HOUSE CONCURRENT RESOLUTION 22

Senator Turner offered the following resolution:

WHEREAS, The Honorable William S. Lott is retiring this year from his position as state district judge of the 26th Judicial District, drawing to a close a distinguished career as a member of the judiciary that has spanned 15 years; and

WHEREAS, A native of Clarendon, he was born April 28, 1918, and attended Amarillo High School as a young man; following his graduation, Judge Lott earned his undergraduate education at Centenary College of Louisiana and The University of Texas at Austin, from which he would later graduate with a doctor of jurisprudence degree in 1940; and

WHEREAS, This patriotic American proudly served his country in military intelligence with the United States Army during World War II and was selected by the War Department to serve as a special agent and work closely with representatives of the Secret Service, the Federal Bureau of Investigation, the Treasury Department, Naval Intelligence, and the San Francisco Police Department to coordinate security measures at a World Peace Conference in San Francisco; and

WHEREAS, On April 5, 1944, Judge Lott took as his bride the former Ellagene Eanes of Georgetown, and over the years their marriage was blessed with two children, Cathy and Bill, and two beloved grandsons, Ryan and Neal; and

WHEREAS, An accomplished member of the legal profession for more than three decades, Judge Lott is a former assistant attorney general who served with exemplary integrity and distinction in this position from 1947 to 1952 under then-Attorney General Price Daniel, Sr.; and

WHEREAS, From 1966 to 1970, this respected gentleman served as the attorney general's appointee to the three-member State School Land Board, during which time he played a pivotal role in the leasing and management of public school lands in Texas; and

WHEREAS, Nicknamed "Landslide Lott" following his first election to the bench in 1976, he took office on January 1, 1977, and has continued to demonstrate the keen intellect and innate sense of fairness that have characterized his judicial career since the day it began; and

WHEREAS, Throughout his career, Judge Lott has generously shared his leadership abilities with a number of worthy organizations, including the American Red Cross, the American Cancer Society, the Boy Scouts and Girl Scouts of America, the Georgetown Chamber of Commerce, San Gabriel Lodge No. 89, A.F. & A.M., and the Sons of Hermann Lodge, to name but a few; and

WHEREAS, Honored on numerous occasions for his wealth of contributions, his accolades include having been named Georgetown's Man of the Year in 1979, receiving a certificate of appreciation and an award for excellence from the Williamson County Law Enforcement Association, and having the William S. Lott Juvenile Center named in his honor; and

WHEREAS, For 15 years, Judge Lott has exemplified the highest standards of excellence, leadership, and dedication to the ideal of justice; he is indeed deserving of special legislative recognition on the occasion of his retirement; now, therefore, be it

RESOLVED, That the 72nd Legislature of the State of Texas, 4th Called Session, hereby honor Judge William S. Lott for his outstanding contributions as a member of the judiciary and extend warmest best wishes to him for a happy and rewarding retirement; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Judge Lott as an expression of highest esteem by the Texas House of Representatives and Senate.

The resolution was previously read and adopted on Wednesday, December 2, 1992.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

GUESTS PRESENTED

Senator Turner was recognized and introduced to the Senate The Honorable William S. Lott, his wife Ellagene, his daughter Cathy, his son Bill and his grandson Ryan.

The Senate welcomed Judge Lott and his family.

SENATE RESOLUTION 75

Senator Brooks offered the following resolution:

WHEREAS, It is indeed an honor for the Senate of the State of Texas to recognize Felton West for his superb contributions to the field of journalism and to the residents of the Lone Star State; and

WHEREAS, For more than 50 years, Felton West has dedicated himself to informing the citizens of Texas while bothering their elected leaders; and

WHEREAS, Since going to work for The Houston Post on June 10, 1942, Mr. West has continued in the newspaper's employ with assignments in Washington, Houston, and Austin; and

WHEREAS, Mr. West is the respected dean of the daily Capitol Press Corps where he has worked as Bureau Chief and columnist since 1966; and

WHEREAS, His integrity, fairness, and insight into state problems have earned him the admiration of those who work closely with him; and

WHEREAS, With the change of heart of Lieutenant Governor Bob Bullock, Mr. West remains the only Texan in favor of a state income tax; and

WHEREAS, The dedicated journalist probably holds the record for the best attendance at the dullest committee meetings; and

WHEREAS, Mr. West also probably holds the record for asking the most questions after the dullest committee meetings; and

WHEREAS, To the relief of those in government who would ignore the needy or forget those who have no voice in Austin, Mr. West is retiring at the end of the year; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, 4th Called Session, meeting in special session to discuss public school finance (a problem that has endured almost as long as Mr. West), hereby congratulate Felton West on his impressive career and thank him for his many years of exceptional service to the readers of The Houston Post; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the distinguished newspaperman as an expression of the high regard and esteem of the Texas Senate.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brooks, the resolution was adopted by a viva voce vote.

(Senator Harris of Dallas in Chair)

**COMMITTEE SUBSTITUTE SENATE BILL 11
ON SECOND READING**

The Presiding Officer laid before the Senate on its second reading and passage to engrossment:

C.S.S.B. 11, Relating to the transfer of Texas Turnpike Authority projects to a county or local government corporation and to the administration of those projects.

The bill was read second time.

POINT OF ORDER

Senator Lucio was recognized and raised a Point of Order that the subject matter of C.S.S.B. 11 was not in the Call of the Governor.

The Presiding Officer ruled the Point of Order was well-taken and sustained.

On motion of Senator Ellis and by unanimous consent, C.S.S.B. 11 was withdrawn.

On motion of Senator Lucio and by unanimous consent, the Point of Order was withdrawn.

**COMMITTEE SUBSTITUTE
SENATE CONCURRENT RESOLUTION 4
ORDERED NOT PRINTED**

On motion of Senator Sims and by unanimous consent, C.S.S.C.R. 4 was ordered not printed.

**COMMITTEE SUBSTITUTE
SENATE CONCURRENT RESOLUTION 4**

The Presiding Officer laid before the Senate the following resolution:

C.S.S.C.R. 4, Directing the Texas Parks and Wildlife Department not to take any action with respect to historical or recreational park closures or operational or staff reductions until the legislature conducts a full review of the agency's budget and operational procedures.

The resolution was read.

On motion of Senator Sims and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

**COMMITTEE SUBSTITUTE SENATE BILL 11
ON SECOND READING**

The Presiding Officer again laid before the Senate on its second reading and passage to engrossment:

C.S.S.B. 11, Relating to the transfer of Texas Turnpike Authority projects to a county or local government corporation and to the administration of those projects.

The bill was again read second time.

Senator Ellis offered the following amendment to the bill:

Amend **C.S.S.B. 11** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6674v, Vernon's Texas Civil Statutes), is amended by adding Section 12c to read as follows:

Sec. 12c. TRANSFER OF TURNPIKE PROJECT. (a) The Authority may lease, sell, or otherwise convey a Turnpike Project to a county or a local government corporation created under the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes). A county or a local government corporation may lease, buy, or otherwise receive a Turnpike Project.

(b) An agreement to lease, sell, or convey a Turnpike Project under Subsection (a) of this section must provide for the discharge and final payment or redemption of all of the Authority's outstanding bonded indebtedness issued for the Turnpike Project being leased, sold, or conveyed.

(c) A Turnpike Project that is leased, sold, or conveyed under Subsection (a) of this section is not eligible to become a part of the state highway system until all obligations, including refunding obligations, that are payable from or secured by revenues of the Turnpike Project or the system of pooled projects of which the Turnpike Project is a part, are discharged and finally paid or redeemed.

(d) An agreement for the lease, sale, or conveyance of a Turnpike Project under this section shall be submitted to the attorney general for approval as a part of the records of proceedings relating to the issuance of bonds of the county or local government corporation. If the attorney general determines that the agreement is in accordance with law, the attorney general shall approve the agreement and deliver to the Texas Transportation Commission a copy of the legal opinion of the attorney general stating that approval.

(e) A county or local government corporation that leases, buys, or receives a Turnpike Project under Subsection (a) of this section is a successor agency to the Authority for purposes of Section 52-b, Article III of the Texas Constitution.

SECTION 2. Sections 7 and 7(a), Chapter 304, Acts of the 50th Legislature, Regular Session, 1947 (Article 6795b-1, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 7. Except as provided by Article 6674v-6, Revised Statutes, the powers herein granted may be carried out by such counties or local government corporations created under the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes), and the projects may be acquired, constructed, improved, maintained, [and] operated, and pooled and tolls and charges fixed and maintained without the consent, approval, supervision or regulation of any commission, department, bureau, agency, or officer of the State

of Texas, provided, however, that nothing in Article 6672, Revised Statutes, or this Section shall be construed to prevent the Texas [State Highway and Public] Transportation Commission from operating and maintaining the project or contributing to the cost of [such] acquisition, construction, improvement, pooling, operation, and maintenance under such provisions as may be agreed to by the county or local government corporation and the Texas Department of Transportation which are not inconsistent with the rights of bondholders or the rights of any agency, person, firm or corporation then operating the project under lease or contract with the county or local government corporation. The Texas [State Highway and Public] Transportation Commission shall have authority without further legislative enactment to make such provision for and contributions toward acquisition, construction, improvement, pooling, operation, and maintenance of the project as it may see fit, and to lease the project under such terms not inconsistent with the provisions of the bond resolution or trust indenture as may be agreed upon with the county or local government corporation, and to declare the project or any part thereof to be a part of the State Highway System and to operate the project or such part thereof as a part of the State Highway System, provided, however, that such declaration may be made and such operation undertaken only to the extent that property and contract rights in the project and in the bonds are not unfavorably affected thereby. When all of the bonds and interest thereon that are payable from or secured by revenues of the project shall have been paid, or a sufficient amount for the payment of all bonds and the interest thereon to maturity shall have been set aside in a trust fund for the benefit of the bondholders and shall continue to be held for that purpose, the project shall become a part of the State Highway System and shall be maintained by the Texas [State Highway and Public] Transportation Commission, free of tolls.

Sec. 7(a). The county is hereby authorized to accept from the United States Government or any of its departments or agencies or from the State of Texas or any of its departments or agencies, any contributions or assistance available from such source or sources in connection with the acquisition, construction, improvement, maintenance, pooling, and operation of such project and to enter into agreements with one or any of them in reference to the acquisition, construction, improvement, maintenance, pooling, and operation of the project.

SECTION 3. Section 4A, Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes), is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) The governing body of a local government may assume for the local government the powers and duties of a local government corporation that has been created by the local government. A local government that assumes the powers and duties of a local government corporation also assumes all of the assets and liabilities of the corporation. The powers, duties, assets, and liabilities of a local government corporation created by more than one local government may be assumed by a local government only if each creating local government so agrees.

(h) A local government corporation is a governmental unit within the meaning of Section 101.001(2), Civil Practice and Remedies Code, and the operations of a local government corporation are governmental and not proprietary functions.

(i) The local government that creates a local government corporation may establish and enforce traffic and other public safety rules on a toll road, toll bridge, or turnpike of the corporation. If more than one local government creates a local government corporation, the local governments may jointly establish and enforce traffic and other public safety rules.

SECTION 4. Subsections (a) and (b), Article 6674v-6, Revised Statutes, are amended to read as follows:

(a) A governmental or private entity, other than a county with a population of more than 1.5 [2.4] million, according to the most recent federal census, and other

than a local government corporation created under the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes) by a county with a population of more than 1.5 million, according to the most recent federal census), may not begin construction of a toll road, toll bridge, or turnpike without the approval of the Texas [State Highway and Public] Transportation Commission if the toll road, toll bridge, or turnpike is to become a part of the state highway system. When deciding whether to approve a proposed toll road, toll bridge, or turnpike project, the commission shall consider:

(1) the feasibility of effectively integrating the toll road, toll bridge, or turnpike into the state highway system; and

(2) the ability of the Texas [State] Department of [Highways and Public] Transportation to construct any connecting roads necessary for the toll road, toll bridge, or turnpike to generate sufficient revenue to pay the debt incurred for its construction.

(b) Any bonds of a county, municipality, or political subdivision (other than a county with a population greater than 1.5 million, [2,100,000] according to the most recent [preceding] federal census, or a local government corporation created under the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes)) or any nonprofit corporation acting on behalf of a county, municipality, or political subdivision, payable in whole or in part from revenues derived from the ownership or operation of a toll road, toll bridge, or turnpike must be reviewed by the Texas [State Highway and Public] Transportation Commission.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

MEMORIAL RESOLUTION

S.R. 77 - By Truan: In memory of Hubert Adami of Jim Wells County and the City of Alice.

CONGRATULATORY RESOLUTIONS

H.C.R. 8 - (Ellis): Commemorating the 15th anniversary of the first National Women's Conference.

H.C.R. 13 - (Carriker): Commemorating the centennial of the pledge of allegiance to the flag of the United States of America and joining with all citizens of this nation in honoring the principles it celebrates.

S.R. 74 - By Green: Extending congratulations to Mr. and Mrs. Van Houten on the occasion of their 50th wedding anniversary.

S.R. 78 - By Truan: Extending congratulations to Winifred P. Stover of Falfurrias on the joyous occasion of her 100th birthday on December 8, 1992.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 3:26 p.m. adjourned until 3:30 p.m. today.

**In Memory
of
Love Gatlin**

Senator Brooks offered the following resolution:

(Senate Resolution 76)

WHEREAS, The Senate of the State of Texas joins with the citizens of Goldthwaite in mourning the loss of Miss Love Gatlin who died on May 20, 1992; and

WHEREAS, Born on April 5, 1902, in Goldthwaite, Texas, Miss Gatlin was the daughter of Andrew Jackson Gatlin and Lula Caroline Gatlin; and

WHEREAS, A gifted and dedicated teacher for 40 years, Miss Gatlin instilled in her students a sense of pride and a lifelong love of learning; and

WHEREAS, She was a much beloved teacher who touched the lives of many, including Senator Chet Brooks, Mills County Commissioner Bill Parker, Pasadena City Councilman O. L. Harris, and many other community leaders and elected officials; numerous adults today recall with gratitude the memorable hours spent in Miss Gatlin's classroom; and

WHEREAS, Respected in the community for her many accomplishments, Miss Gatlin was an exemplary lady and a devout Christian who was a member of the Methodist Church; and

WHEREAS, A woman of integrity, strength, and generosity, Miss Gatlin gave unselfishly of her time to others; and

WHEREAS, Miss Gatlin lived a life rich in friendships; her wisdom, warm spirit, and valued counsel will not be forgotten by those who knew her; and

WHEREAS, The memories she leaves behind will be treasured forever by her family and many friends; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, 4th Called Session, hereby extend sincere condolences to the bereaved family of Miss Love Gatlin: her nieces and nephew, Florene Woody Loeffler, Flora Evelyn and Jack Snell, Haskell and Flossie Gatlin, and Mary Bowles Piccione; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of her family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Miss Love Gatlin.

The resolution was read.

On motion of Senator Sims and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Brooks and by unanimous consent, the resolution was adopted by a rising vote of the Senate.